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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

NOV - 9 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	GEN Docket No. 90-314
	)	ET Docket No. 92-100
	)	
Amendment of the Commission's	)	RM-7140, RM-7175, RM-7617,
Rules to Establish New	)	RM-7618, RM-7760, RM-7782,
Personal Communications	)	RM-7860, RM-7977, RM-7978,
Services	)	RM-7979, RM-7980
	)	
	)	PP-35 through PP-40, PP-79
	)	through PP-85

To: The Commission

COMMENTS OF KERRVILLE TELEPHONE COMPANY

Kerrville Telephone Company ("Kerrville"), by its attorneys and pursuant to Section 1.415(a) of the FCC's Rules, submits the following comments in response to the Commission's Notice of Proposed Rule Making and Tentative Decision, FCC 92-333, released August 14, 1992 ("NPRM") in the captioned proceeding. In support hereof, the following is shown:

I. Statement of Interest

1. Kerrville is a independent wire-line common carrier which is also engaged in providing common carrier land mobile services, including cellular telephone service, to the public. As a wire-line common carrier holding more than a 1 percent interest in a Domestic Public Cellular Radio Telecommunications Service licensee serving its local exchange area, Kerrville would be adversely affected by the Commission's proposed restrictions which would prevent similarly situated wire-line telephone companies from

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holding a Personal Communications Service ("PCS") license in their service areas.

**II. Cellular Carriers Should be Allowed to Hold PCS Licenses Within Their Cellular Service Areas**

2. In the NPRM, the Commission has proposed to allow cellular carriers to obtain PCS licenses outside their cellular service areas, but has solicited comment on whether cellular carriers should also be allowed to obtain PCS licenses within their cellular service areas. NPRM, Para. 67. For the reasons stated below, Kerrville submits that cellular carriers should also be allowed to obtain PCS licenses within their cellular service areas.

3. As an initial matter, Kerrville applauds the Commission's efforts to develop rules for the commercial licensing and operation of new PCS systems. But the fear that licensing PCS systems to cellular carriers within their cellular service areas will create an anti-competitive climate is misplaced, and speculative, at best; and such an eligibility restriction will severely impair the ability of cellular carriers to offer new services which complement the existing basic cellular service offerings.

4. As the Commission has expressly noted, the cellular industry has been in the vanguard in bringing new and competitive mobile radio technology and services to the public. In licensing mobile radio services, the "Commission has squarely placed its faith in competitive markets and service flexibility as the best path to provide greater

choice and low prices for consumers," a faith "which has been amply justified by the nationwide availability of cellular service;" by the "competition among cellular providers for customers;" by the "diverse array of service and equipment options;" and by the "aggressive behavior of cellular providers in implementing new technologies such as digital transmission and providing a variety of new services using the cellular spectrum." NPRM, Para. 2. While it is impossible to predict at this time how the market for commercial PCS services will ultimately develop, it appears that, to a large extent, PCS service offerings will complement existing cellular service offerings. To this end, the rules governing PCS license eligibility should not exclude any class of carrier from applying for or obtaining a PCS license. Cellular carriers should be permitted to participate as PCS licensees as fully and to the same extent as any other class of carriers.

5. Allowing cellular carriers to obtain PCS licenses in their cellular service areas will not produce anti-competitive conduct and, indeed, will be essential to allowing cellular carriers to provide PCS services in an efficient and cost effective manner. At this juncture, it should be noted that other forms of currently licensed land mobile radio technology compete with cellular systems; yet the Commission has never adopted eligibility restrictions to prevent cellular carriers from being licensed in the

"competing" radio services. For example, Specialized Mobile Radio ("SMR") systems are a case in point. SMR systems provide two-way voice services which can compete with cellular systems while at the same time offering the ability to provide such services as fleet dispatch which cellular carriers may not provide. No Commission Rule or policy precludes a cellular carrier from also being a licensee of an SMR system; and indeed, Kerrville understands that several Frequency Block A cellular carriers also hold licenses for SMR systems located within their respective cellular service areas.<sup>1</sup> These licenses permit the cellular carriers to provide an expanded array of service offerings to the public without an adverse effect on competition.

6. PCS systems will employ a digital radio transmission format. In contrast, cellular systems currently employ an analog transmission format, which requires more channels than a digital transmission format to accommodate the same number of calls. While many cellular systems in the largest metropolitan areas are presently in the process of converting from analog to digital transmission formats to achieve greater system capacity, all cellular systems will be required to retain analog transmission equipment for the foreseeable future. This is so because all existing subscriber equipment employs analog

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<sup>1</sup> The FCC's Rules preclude, however, wire-line telephone companies and their subsidiaries from holding SMR licenses.

transmission, and a large market exists, and will continue to exist, for the sale of new and used analog subscriber equipment. Analog subscriber units are less expensive and considerably more compact than their digital counterparts. In view of the price and compact size, analog subscriber units are and will continue to be very popular for both local and roamer service, particularly among both business users in downtown areas and subscribers desiring service for personal use. The subscribers will simply not replace their analog equipment for the bulkier and more expensive digital equipment; and, as a result, cellular carriers will be required to retain analog transmission facilities to accommodate their service needs. The need to retain analog transmission facilities will thus require large amounts of 800 MHz band spectrum for the provision of basic cellular service.

7. Given the continued need to accommodate analog subscriber equipment for the provision of cellular service, cellular carriers simply have insufficient spectrum under Rule Section 22.902(b) to offer full-scale PCS services only as an auxiliary or enhanced service under Rule Section 22.930. The cellular carriers require the right to obtain PCS licenses if they are to offer PCS services (which will complement their existing cellular service offerings) using the necessary digital transmission found on a competitive and cost effective basis.

8. In addition, the 2 GHz band PCS channels are better suited to the provision of PCS services than the 800 MHz band channels licensed to the cellular systems. A large segment of the PCS market will be indoor applications such as wireless private branch exchanges ("PBXs") located inside office buildings. Such indoor applications will require the ability to exercise great control over the range of the radio transmission path to obtain optimal spectrum efficiency. Due to propagation characteristics, the 2 GHz band channels have a shorter range than 800 MHz channels at any given power level. As a result, 2 GHz PCS systems are better suited to indoor applications such as the operating environment of a wireless PBX system.

**III. Wire-line Carriers With Cellular Interests Should Not be Precluded from Holding PCS Licenses Within the Same Cellular Service Area**

9. Kerrville supports the Commission's proposal to permit wire-line carriers to provide PCS services in their respective local exchange service areas. Kerrville is concerned, however, that in the event the Commission does not permit cellular providers to obtain PCS spectrum in their service areas, it will likewise prohibit any entity with a direct or indirect interest greater than 1 percent in a cellular carrier from applying for a PCS license within that cellular carrier's service area. NPRM, Para. 67, n. 46. Kerrville submits that this proposal would preclude most wire-line carriers from providing PCS services within their

respective local exchange service areas due to their large scale participation in cellular, and is, therefore, too restrictive since most wire-line common carriers hold an interest (typically greater than 1 percent) in a cellular carrier serving their local exchange area.

10. During the cellular filing windows, many wire-line carriers filed applications for Frequency Block B cellular licenses. Because of the vast number of applications received, most Frequency Block B applicants entered into settlement agreements with other mutually exclusive applicants. These settlement agreements usually resulted in the formation of partnerships, in which the wire-line carrier applicants negotiated varying interests in the resulting cellular licensee.

11. The Commission has long recognized the valuable and necessary expertise that wire-line carriers possess to bring new communications services, such as cellular, to the market place in an efficient manner. The factors which lead to the wire-line frequency set-aside in cellular are germane to the PCS proceedings today.

12. The market place has demonstrated a need for additional personal communications services. These services, such as wireless PBX systems, wireless local area networks ("LANs") and digital cordless telephones, are logical adjuncts to the local exchange service provided by the wire-line carriers. Additionally, wire-line carriers

have traditionally developed much of the land mobile research and technology over the years, and have been at the forefront in developing various PCS technologies. As the Commission is well aware, numerous wire-line carriers, or their subsidiaries and affiliates, have obtained experimental authorizations in order to develop and test various types of PCS equipment and services. And because of this experience, the wire-line carriers are now positioned to provide new PCS services. Further, the wire-line carriers' research and development of technologies in this area will provide the necessary impetus for the industry to expeditiously bring these communication services to the public.

13. Allowing telephone companies with cellular interests to provide PCS services in markets covered by the cellular license is consistent with the mandate of Section 1 of the Communications Act of 1934, as amended (47 U.S.C. §151) (the Act) "to make available, so far as possible, to all people of the United States a rapid, efficient, Nation-wide . . . radio communications service with adequate facilities at reasonable charges." By preventing a wire-line carrier, who holds a one percent or greater interest in a cellular carrier that serves its local exchange area, from seeking a license to provide PCS services to its subscribers, the Commission will choke the necessary impetus to rapidly bring communications services to the market



place. Such an action is contrary to the mandate of Section 1 of the Act.

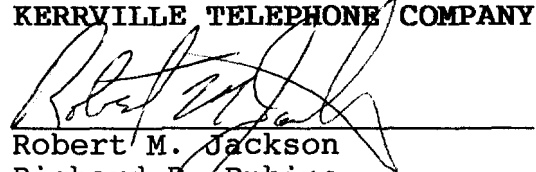
#### IV. Conclusion

14. The Commission's proposal to establish rules for the commercial licensing and operation new PCS systems is a step in the right direction to bring this new and necessary service to the public. However, the Commission's proposal is unduly restrictive with regard to cellular carriers and other carriers with interests in cellular carriers. The Commission should restructure its proposed regulations to permit cellular carriers to provide PCS services within their cellular service areas. Likewise, wire-line carriers with a greater than 1 percent interest in a cellular carrier serving its local exchange area should be permitted to provide PCS services in the local exchange area.

Respectfully submitted,

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Dated: November 9, 1992